

EPA response: most of EPA's TSCA programs, including CDR, use the same definition for small business as defined by regulation in 40 CFR 704.3. This definition has never been updated. A few TSCA programs use different definitions of small business, including for 8(a) PAIR and for calculating PMN fees.

Small manufacturer or importer means a manufacturer or importer that meets either of the following standards:

(1) *First standard.* A manufacturer or importer of a substance is small if its total annual sales, when combined with those of its parent company (if any), are less than \$40 million. However, if the annual production or importation volume of a particular substance at any individual site owned or controlled by the manufacturer or importer is greater than 45,400 kilograms (100,000 pounds), the manufacturer or importer shall not qualify as small for purposes of reporting on the production or importation of that substance at that site, unless the manufacturer or importer qualifies as small under standard (2) of this definition.

(2) *Second standard.* A manufacturer or importer of a substance is small if its total annual sales, when combined with those of its parent company (if any), are less than \$4 million, regardless of the quantity of substances produced or imported by that manufacturer or importer.

(3) *Inflation index.* EPA shall make use of the Producer Price Index for Chemicals and Allied Products, as compiled by the U.S. Bureau of Labor Statistics, for purposes of determining the need to adjust the total annual sales values and for determining new sales values when adjustments are made. EPA may adjust the total annual sales values whenever the Agency deems it necessary to do so, provided that the Producer Price Index for Chemicals and Allied Products has changed more than 20 percent since either the most recent previous change in sales values or the date of promulgation of this rule, whichever is later. EPA shall provide Federal Register notification when changing the total annual sales values.

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]

Sent: Monday, June 29, 2015 1:37 PM

To: Kaiser, Sven-Erik

Cc: Karakitsos, Dimitri (EPW); Zipkin, Adam (Booker); Deveny, Adrian (Merkley)

Subject: Follow-up

Hey Sven, sorry again to miss the call last week. My understanding was there might be one more follow-up on exports? Are we waiting for anything from EPA?

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 7/2/2015 12:23:53 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
CC: Joseph, Avenel (Markey) [Avenel_Joseph@markey.senate.gov]
Subject: Re: Sen. Markey TSCA TA Request on several issues

Let's do 9:30. Please call [Personal Phone / Ex. 6] code [Personal Phone / Ex. 6]. Thanks,
Sven

On Jul 2, 2015, at 8:20 AM, "Freedhoff, Michal (Markey)" <Michal_Freedhoff@markey.senate.gov> wrote:

9:30 would be better but I can make 9 work.

From: Kaiser, Sven-Erik
Sent: Thursday, July 2, 2015 8:18 AM
To: Freedhoff, Michal (Markey)
Cc: Joseph, Avenel (Markey)
Subject: Re: Sen. Markey TSCA TA Request on several issues

Michal, can you do the call at 9? Thanks,
Sven

On Jul 1, 2015, at 4:50 PM, "Freedhoff, Michal (Markey)" <Michal_Freedhoff@markey.senate.gov> wrote:

I am afraid I am going to have to reschedule as I am on with Senator Markey and unlikely to be off by 5. Could we find time tomorrow morning?

I'm sorry.

Michal Ilana Freedhoff, Ph.D.
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202-224-2742

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Sent: 7/1/2015 8:53:11 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
CC: Joseph, Avenel (Markey) [Avenel_Joseph@markey.senate.gov]
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Ok – I'm checking on availability tomorrow. Any times off the table? Thanks,
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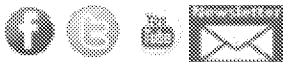
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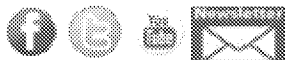
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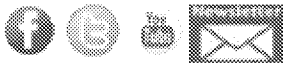
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Sent: 6/16/2015 4:12:41 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
CC: Joseph, Avenel (Markey) [Avenel_Joseph@markey.senate.gov]
Subject: RE: Sen. Markey TSCA TA request on SNURs

Hmm, will see if we can dig it out. Thanks,
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Sent: Tuesday, June 16, 2015 11:55 AM
To: Kaiser, Sven-Erik
Cc: Joseph, Avenel (Markey)
Subject: RE: Sen. Markey TSCA TA request on SNURs

Also, could you pls send this FR document? I tried to find it online but was unsuccessful, maybe because it is so old.

Thanks
Michal

49 Fed. Reg. 35011, 35014 (Sept. 5, 1984)

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Subject: TSCA TA - SNURs

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Also, as a general matter, when we talked to Jim he told us that what is in S 697 on this matter is EPA's general current practice, ie that if it intends to do a notification about an article it does assess exposure first. What many have raised concerns with about the S 697 language (also pasted below) is not necessarily a concern about EPA's practice, but of the potential for the EPA's practice to become litigatable. For example, wouldn't the words "affirmative" and "reasonable" be words that could be litigated if an articles manufacturer had an issue with what EPA was doing?

Thanks
Michal

"In theory, SNURs are simply requirements to submit information to EPA before engaging in a significant new use. In practice, SNURs act as a *de facto* barrier to engaging in a significant new use. This may be seen by the paucity of significant new use notices (SNUNs) submitted each year. EPA currently has about 1,685 SNURs, some of which apply to multiple chemicals. Yet almost no SNUNs are filed for those SNURs. See the following:

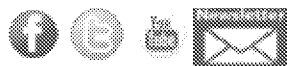
- FY 2005: 4 SNUNs were filed
- FY 2006: 8 SNUNs were filed
- FY 2007: 6 SNUNs were filed
- FY 2008: 8 SNUNs were filed
- FY 2009: 7 SNUNs were filed
- FY 2010: 2 SNUNs were filed
- FY 2011: 11 SNUNs were filed"

“(3) ARTICLE CONSIDERATION.—The Administrator may require the notification for the import or processing of a chemical substance as part of an article or category of articles under paragraph (1)(B) if the Administrator makes an affirmative finding in a rule under paragraph (2) that the reasonable potential for exposure to the chemical substance through the article or category of articles subject to the rule warrants notification.”;

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Sven

In discussing the new ly added SNUR provision with various parties, we were provided with the pasted statistics below. Could you tell us, for each year listed below, how many SNURs EPA issued (and how many of those were applied to articles)? How many of the SNUNs listed below applied to articles? Finally, does EPA concur with the statement that SNURS act as a defacto barrier to engaging in a significant new use (and why or why not)?

Also, as a general matter, when we talked to Jim he told us that what is in S 697 on this matter is EPA's general current practice, ie that if it intends to do a notification about an article it does assess exposure first. What many have raised concerns with about the S 697 language (also pasted below) is not necessarily a concern about EPA's practice, but of the potential for the EPA's practice to become litigatable. For example, wouldn't the words "affirmative" and "reasonable" be words that could be litigated if an articles manufacturer had an issue with what EPA was doing?

Thanks
Michal

"In theory, SNURs are simply requirements to submit information to EPA before engaging in a significant new use. In practice, SNURS act as a *de facto* barrier to engaging in a significant new use. This may be seen by the paucity of significant new use notices (SNUNs) submitted each year. EPA currently has about 1,685 SNURs, some of which apply to multiple chemicals. Yet almost no SNUNs are filed for those SNURs. See the following:

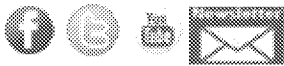
- FY 2005: 4 SNUNs were filed
- FY 2006: 8 SNUNs were filed
- FY 2007: 6 SNUNs were filed
- FY 2008: 8 SNUNs were filed
- FY 2009: 7 SNUNs were filed
- FY 2010: 2 SNUNs were filed

- FY 2011: 11 SNUNs were filed”

“(3) ARTICLE CONSIDERATION.—The Administrator may require the notification for the import or processing of a chemical substance as part of an article or category of articles under paragraph (1)(B) if the Administrator makes an affirmative finding in a rule under paragraph (2) that the reasonable potential for exposure to the chemical substance through the article or category of articles subject to the rule warrants notification.”;

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey



Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 6/15/2015 2:11:34 PM
To: 'Wagner, Jen (Markey)' [Jen_Wagner@markey.senate.gov]
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Jen,
I'm not sure if we're getting to your question about the enforcement language in new section 217(e). If the intent is to authorize citizen civil suits against the Administrator -- it may create unnecessary confusion (the reference to issuance of regulations is a problem)

If the intent is to authorize citizen civil suits against parties who fail to comply with the regulations once the regulations have been issued by the Administrator and are in effect -- then it might be best to come up with a new title and clarify a few other things regarding that type of citizen suit.

If the plan is to have each of the proposed new sections (217, 218, etc) authorize citizen civil suits against private parties for violations, then we might suggest one enforcement section that references all of the new sections OR consider whether the enforcement provisions in 15 USC 2614, 2615, and 2616 could be used (with a few changes as necessary).

If helpful, perhaps we could set up a call to discuss. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Wagner, Jen (Markey) [mailto:Jen_Wagner@markey.senate.gov]
Sent: Monday, June 15, 2015 10:04 AM
To: Kaiser, Sven-Erik
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Sven, thanks so much for this. I was just in the middle of drafting a reply to the enforcement question.

Our intent was to ensure that 15 USCA 2619(a) would be applicable. Given your clarification from last week that this is the case even without such language, does our section 217(e) create confusion?

Would it be technically better to remove our 217(e) altogether or reword it to specifically reference 15 USC 2619(a) and then include that identical language to our 218(e) as well?

Thanks for your help walking through this last technical detail.

Best,
Jen

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Monday, June 15, 2015 10:01 AM

To: Wagner, Jen (Markey)

Subject: Sen. Markey TA Request on Asbestos Bill

Jen,

Following up on your information request, please see the attached items. The first two, FY14 and FY15 National Program Manager Guidances, lay out EPA's compliance and enforcement program. A key area for your attention is the FY 2014 NPMG, beginning on Page 30, where the TSCA National Program activities and priorities are identified. The FY15 NPMG updates identifies any major changes to the various programs as described in the FY14 NPMG. The TSCA program does not have any major changes in FY15, so the FY15 NPMG does not have anything to say regarding TSCA.

As to state funding, attached is the funding chart EPA sends to the Regional Offices identifying how much each state and program was allocated under the FY15 TSCA State and Tribal Assistance Grants (STAG). The attachment shows the total \$4,919,000. The TSCA STAG funding has two sources. Section 28 of TSCA funds the AHERA and PCB programs, and section 404(g) of TSCA funds the lead-paint program. Section 28 requires the state to match 25% of the grant.

Please let me know if any additional questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

Begin forwarded message:

From: "Wagner, Jen (Markey)" <Jen_Wagner@markey.senate.gov>

Date: June 12, 2015 at 12:37:28 PM EDT

To: "Kaiser, Sven-Erik" <Kaiser.Sven-Erik@epa.gov>

Subject: FW: Sen. Markey TA Request on Asbestos Bill

One more question that came up...

Could you please tell me what the overall TSCA enforcement spending is currently and how much EPA distributes as grants to states for enforcement annually? This information is needed to determine a reasonable figure for the section of the bill on "funds for enforcement".

Again, we really would like to have the remaining questions answered today if possible.

Thanks,
Jen

From: Wagner, Jen (Markey)

Sent: Friday, June 12, 2015 12:20 PM

To: 'Kaiser, Sven-Erik'

Subject: FW: Sen. Markey TA Request on Asbestos Bill

Sven,

I'm looking for some additional clarification about whether additional text would be required in this bill if the intent was to allow for citizen petitions/suits to make sure that rules are promulgated to implement the bill's provisions.

If we could get more information on that today, that would be much appreciated.

Thanks,
Jen

From: Wagner, Jen (Markey)
Sent: Thursday, June 11, 2015 3:58 PM
To: 'Kaiser, Sven-Erik'
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Sven,
Could you please point me to the TSCA enforcement priorities document that was referenced during the call this morning?

Also, I would like clarification on the TA comments regarding citizen suits to enforce the deadlines for promulgating rules. They appear as comments A21, A46, and A71. I didn't have time to ask about this specific point, but I was wondering if I could get technical feedback about whether additional language in the bill is necessary. We take your point for Section 2 (updating the AIA of 1988). But with regard to the other sections, we included an enforcement mechanism in Section 3 (Shown as (e) "Enforcement of Issuance of Regulations") and the bill's Sections 3,4, and 5 – we believe – would still leave 15 USC 2647(d)-(f) intact and applicable. As a related matter, does 15 USC 2620 (of TSCA Title I) apply as well?

Thanks for any clarification you could give me on this.

Jen

From: Kaiser, Sven-Erik [<mailto:Kaiser.Sven-Erik@epa.gov>]
Sent: Wednesday, June 10, 2015 3:21 PM
To: Wagner, Jen (Markey)
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Jen – 9 am works – 866-299-3188, code 202-566-2753#. I'll send an invite. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Wagner, Jen (Markey) [mailto:Jen_Wagner@markey.senate.gov]
Sent: Wednesday, June 10, 2015 2:57 PM
To: Kaiser, Sven-Erik
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Thanks Sven. I will try to block anything from going on my calendar in the hopes that a call will work with you all.

~Jen

From: Kaiser, Sven-Erik [<mailto:Kaiser.Sven-Erik@epa.gov>]
Sent: Wednesday, June 10, 2015 1:44 PM
To: Wagner, Jen (Markey)
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Jen – I'll check with folks and see what we can set up with the times you provided. Please let me know if any additional questions. Best,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Wagner, Jen (Markey) [mailto:Jen_Wagner@markey.senate.gov]
Sent: Wednesday, June 10, 2015 12:43 PM
To: Kaiser, Sven-Erik
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Sven,
Could we please schedule a call with your best asbestos folks to walk through some of the technical assistance? I would like to get some clarification on a few areas, including how the waiver system is operating in practice and pros and cons of replacing the waiver system with primacy language.

It is important that this call happen this week. Here are some windows that would work for me:

Thursday: 9am-10am, 2-2:30pm, or 3:30pm-5:30pm
Friday: any time before 1pm

Thank you so much.
~Jen

From: Kaiser, Sven-Erik [<mailto:Kaiser.Sven-Erik@epa.gov>]
Sent: Tuesday, June 09, 2015 1:48 PM
To: Wagner, Jen (Markey); Freedhoff, Michal (Markey); Joseph, Avenel (Markey)
Subject: Sen. Markey TA Request on Asbestos Bill

Jen,
This responds to your request for technical assistance on the draft asbestos bill. We have the following general comments along with the attached line by line comments.

General comments:

- Responsibility for implementing most of the new requirements would appear to fall largely on states, although EPA would have new oversight and data management responsibilities, along with a grant program. EPA would need to do a rule on the reporting requirements, a separate rule requiring disclosure on building permit applications, revise regulations on state waivers, and issue a notice on how to submit data.
- Encourage consistency in use of terms. For example, "asbestos containing material" is not used consistently throughout the Act, which it may make it unclear whether both asbestos and asbestos containing material are covered.

- The date range of “before 1981 (or no later than 1980)” is not a bright line for whether asbestos is present in buildings. Considering the “Corrosion Proof Fittings” case and the overturned EPA Asbestos Ban and Phaseout Rule under TSCA, asbestos containing materials may be present in buildings built after 1981. Today, asbestos products may still be manufactured, imported, distributed and sold in the U.S. Note: It appears that the inclusion of “built before 1981” may have been included based on the OSHA asbestos regulation’s use of “buildings constructed no later than 1980.”
 - **1926.1101**
https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9995
 - **1910.1001**
https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10862
 - However, this OSHA provision “buildings constructed no later than 1980” is for the presumption of asbestos in a building. Building owners must presume certain materials in buildings built before 1980 contain asbestos. Building owners, however, are still responsible for any asbestos within their buildings built after 1980.
- The term “risk assessment” as used (e.g., Section 3(b)(3)) may imply a more costly, unnecessary and undefined activity when applied to a residential setting. The term “inspection” is used in the current context of the TSCA asbestos regulations and the asbestos professional industry when looking for the presence of asbestos.
- It is not clear what is meant by the term “asbestos hazard(s)” throughout the proposed amendment. For lead paint, the term “lead based paint hazard” is defined in the Residential Lead-Based Paint Hazard Reduction Act of 1992 which helps regulatorily in determining what is identified as a hazard and how it should be addressed. Leaving “asbestos hazard(s)” undefined may create situations where defining a hazard is open to interpretation.
- Suggest considering whether criminal enforcement provisions be added to the bill.

We would be open to further discussion on that and any portion of the entire TA if helpful. The technical assistance is intended for use only by the requester. The technical assistance does not necessarily represent the policy position of the agency and the administration on the bill, the draft language and the comments. Please let me know if any additional questions. Best,
 Sven

Sven-Erik Kaiser
 U.S. EPA
 Office of Congressional and Intergovernmental Relations
 1200 Pennsylvania Ave., NW (1305A)
 Washington, DC 20460
 202-566-2753

From: Wagner, Jen (Markey) [mailto:Jen_Wagner@markey.senate.gov]

Sent: Wednesday, May 13, 2015 1:05 PM

To: Kaiser, Sven-Erik

Subject: feedback sought on draft legislation

Sven,

I hope you are doing well. We wanted to share with you a discussion draft of a bill my boss, Senator Markey, plans to introduce. We welcome your general feedback but were hoping you might have specific recommendations for Section 4 of the bill and, in particular, the selection of waiver language or primacy language. I've attached a copy of the text as well as a copy of our one-page summary.

If you are able to provide feedback by end of next week, that would be appreciated. Thanks in advance.

Kind regards,

Jen Wagner

Jennifer K. Wagner, J.D., Ph.D.
AAAS Congressional Fellow
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 5/13/2015 9:46:15 PM
To: 'Cohen, Jacqueline' [jackie.cohen@mail.house.gov]
Subject: RE: HEC TSCA TA on Risk Evaluation Wait List

Jacqueline,
What about 20? Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Cohen, Jacqueline [mailto:jackie.cohen@mail.house.gov]
Sent: Wednesday, May 13, 2015 5:41 PM
To: Kaiser, Sven-Erik; Cohen, Jacqueline
Subject: Re: HEC TSCA TA on Risk Evaluation Wait List

Can we go higher?

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Wednesday, May 13, 2015 05:11 PM Eastern Standard Time
To: Cohen, Jacqueline
Subject: HEC TSCA TA on Risk Evaluation Wait List

Jacqueline,
This responds to your request for technical assistance on a wait list for risk evaluations. The technical assistance is intended for use only by the requester. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments. Please let me know if any additional questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

EPA Technical Assistance on Risk Evaluation Wait List

(8) PACING OF REQUESTED RISK EVALUATIONS.—

(A) RESPONSE TO REQUESTS.—Notwithstanding paragraphs (3)(A)(ii) and (5)(A)(ii), the Administrator shall not initiate risk evaluations for more than 15 chemical substances per year in response to requests under paragraph 3(A)(ii).

(B) WAIT LIST.—The Administrator shall compile, keep current, and publish a wait list of the requests for which paragraph (8)(A) precludes the initiation of a risk evaluation.

(C) PRIORITY.—The Administrator shall respond to requests under paragraph (3)(A)(ii), including pending requests on the wait list, in order based solely on the date the Administrator receives the request.

(D) DEADLINES.—The deadline under paragraph (5)(A)(ii) shall be stayed while a request is on the wait list.

(E) INTERPRETATION.—Nothing in this paragraph shall be interpreted to limit the discretion of the Administrator to initiate a risk evaluation under paragraph (3)(A)(i).

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 5/13/2015 9:41:33 PM
To: 'Cohen, Jacqueline' [jackie.cohen@mail.house.gov]
Subject: RE: HEC TSCA TA on Risk Evaluation Wait List

checking

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Cohen, Jacqueline [mailto:jackie.cohen@mail.house.gov]
Sent: Wednesday, May 13, 2015 5:41 PM
To: Kaiser, Sven-Erik; Cohen, Jacqueline
Subject: Re: HEC TSCA TA on Risk Evaluation Wait List

Can we go higher?

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Wednesday, May 13, 2015 05:11 PM Eastern Standard Time
To: Cohen, Jacqueline
Subject: HEC TSCA TA on Risk Evaluation Wait List

Jacqueline,
This responds to your request for technical assistance on a wait list for risk evaluations. The technical assistance is intended for use only by the requester. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments. Please let me know if any additional questions. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

EPA Technical Assistance on Risk Evaluation Wait List

(8) PACING OF REQUESTED RISK EVALUATIONS.—

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Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 6/15/2015 1:13:20 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: Sen. Markey TSCA Reform TA Requests

Michal,

Following the Friday flurry of emails. I think we are caught up on TA requests. Please let me know if we owe you anything. We are continuing to work with Jen Wagner on the asbestos bill TA. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 5/13/2015 9:11:14 PM
To: 'Cohen, Jacqueline' [jackie.cohen@mail.house.gov]
Subject: HEC TSCA TA on Risk Evaluation Wait List

Jacqueline,

This responds to your request for technical assistance on a wait list for risk evaluations. The technical assistance is intended for use only by the requester. The technical assistance does not necessarily represent the policy positions of the agency and the administration on the bill, the draft language and the comments. Please let me know if any additional questions. Thanks,

Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

EPA Technical Assistance on Risk Evaluation Wait List

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(E) INTERPRETATION.—Nothing in this paragraph shall be interpreted to limit the discretion of the Administrator to initiate a risk evaluation under paragraph (3)(A)(i).

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 5/13/2015 1:24:17 PM
To: 'Cohen, Jacqueline' [jackie.cohen@mail.house.gov]; Schmit, Ryan [Ryan.Schmit@mail.house.gov]
Subject: RE: Latest version of TSCA Modernization Act

thanks

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Cohen, Jacqueline [mailto:jackie.cohen@mail.house.gov]
Sent: Wednesday, May 13, 2015 9:16 AM
To: Kaiser, Sven-Erik; Schmit, Ryan
Cc: Cohen, Jacqueline
Subject: Re: Latest version of TSCA Modernization Act

There are a few changes. On page 11, a reference to unreasonable risk was changed to the identified risk; a fix was made in the paragraph about the work plan; another in the PBT rulemaking paragraph. Small stuff.

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Wednesday, May 13, 2015 09:00 AM Eastern Standard Time
To: Schmit, Ryan
Cc: Cohen, Jacqueline
Subject: Re: Latest version of TSCA Modernization Act

Ryan and Jacqueline,
This looks the same as what we saw Monday night. Are there changes in this version? Will there be a managers amendment? Thanks,
Sven

On May 12, 2015, at 6:22 PM, "Schmit, Ryan" <Ryan.Schmit@mail.house.gov> wrote:

Hi Sven,

FYI, the latest draft is now public. See below:

<http://democrats.energycommerce.house.gov/index.php?q=markup/markup-of-hr-tsca-modernization-act-of-2015-subcommittee-on-environment-and-the-economy-may-1>

Ryan N. Schmit
Committee on Energy and Commerce, Democratic Staff
U.S. House of Representatives
ryan.schmit@mail.house.gov
(202) 226-0593

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 5/13/2015 1:00:19 PM
To: Schmit, Ryan [Ryan.Schmit@mail.house.gov]
CC: Cohen, Jacqueline [jackie.cohen@mail.house.gov]
Subject: Re: Latest version of TSCA Modernization Act

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Ryan N. Schmit
Committee on Energy and Commerce, Democratic Staff
U.S. House of Representatives
ryan.schmit@mail.house.gov
(202) 226-0593

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 5/12/2015 10:25:07 PM
To: Schmit, Ryan [Ryan.Schmit@mail.house.gov]
CC: Cohen, Jacqueline [jackie.cohen@mail.house.gov]
Subject: Re: Latest version of TSCA Modernization Act

Ryan,
Thanks, looks like the time moved up to noon. Best,
Sven

On May 12, 2015, at 6:22 PM, "Schmit, Ryan" <Ryan.Schmit@mail.house.gov> wrote:

Hi Sven,

FYI, the latest draft is now public. See below:

<http://democrats.energycommerce.house.gov/index.php?q=markup/markup-of-hr-tsca-modernization-act-of-2015-subcommittee-on-environment-and-the-economy-may-1>

Ryan N. Schmit
Committee on Energy and Commerce, Democratic Staff
U.S. House of Representatives
ryan.schmit@mail.house.gov
(202) 226-0593

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 6/12/2015 3:43:13 PM
To: Freedhoff, Michal (Markey) [Michal_Freedhoff@markey.senate.gov]
Subject: Re: Sen. Markey TSCA TA on Preemption Waiver

Checking

On Jun 12, 2015, at 11:35 AM, "Freedhoff, Michal (Markey)" <Michal_Freedhoff@markey.senate.gov> wrote:

Related q – is EPA aware of other instances in which language such as what was included below has been enacted?

No further relief is available under section 20(a)(2) after 90 days have passed from the date on which relief was sought, nor is any relief available under section 20(a)(2) that would stay the reinstatement of waiver under subparagraph (7)(B)(iii).

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey

<image001.png><image002.png><image003.png><image004.jpg>

From: Kaiser, Sven-Erik [<mailto:Kaiser.Sven-Erik@epa.gov>]
Sent: Friday, June 12, 2015 11:13 AM
To: Freedhoff, Michal (Markey)
Subject: Fwd: Sen. Markey TSCA TA on Preemption Waiver

Resend

On your first point: new language to implement your clarified policy intent has been added. The comment bubble for this new language is highlighted in yellow.

On your second point: Yes, S. 698, as reported from committee, includes provisions whereby the automatic approval of a waiver (because of EPA's failure to meet the duty under 3(B)) would be judicially reviewable. EPA's technical assistance is that it would be beneficial to eliminate such provisions, as they are only providing for a non-substantive judicial forum, which seems unlikely to have been the drafters' policy intent. The legally appropriate point of reference (which could be used as a contingency triggering whether the waiver turns on or off, if that is the drafters' policy intent) is the filing of a mandatory duty suit under TSCA section 20(a)(2). Clarifying comment language has been added, and highlighted in green.

Sven-Erik Kaiser

U.S. EPA

Office of Congressional and Intergovernmental Relations

1200 Pennsylvania Ave., NW (1305A)

Washington, DC 20460

202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]

Sent: Thursday, June 11, 2015 5:19 PM

To: Kaiser, Sven-Erik; Joseph, Avenel (Markey)

Subject: RE: Sen. Markey TSCA TA on Preemption Waiver

Thanks – S 697 as reported contains a 60 day filing deadline, and policy was to make only the specified changes to the reported text for version 1.

Also, in S 697, automatic approval of a waiver IS judicially reviewable.

Michal Ilana Freedhoff, Ph.D.

Director of Oversight & Investigations

Office of Senator Edward J. Markey

255 Dirksen Senate Office Building

Washington, DC 20510

202-224-2742

Connect with Senator Markey

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 6/11/2015 6:59:41 PM
To: 'Black, Jonathan (Tom Udall)' [Jonathan_Black@tomudall.senate.gov]
Subject: RE: Sen. Udall TSCA TA Request on Asbestos Definition

Ok - thanks

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

-----Original Message-----

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Thursday, June 11, 2015 2:57 PM
To: Kaiser, Sven-Erik
Subject: RE: Sen. Udall TSCA TA Request on Asbestos Definition

Wasn't able to coordinate it with them. We can try for next week. Thanks. this isn't urgent.

-----Original Message-----

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Thursday, June 11, 2015 1:06 PM
To: Black, Jonathan (Tom Udall)
Subject: Re: Sen. Udall TSCA TA Request on Asbestos Definition

After 3pm today?

On Jun 11, 2015, at 11:47 AM, "Black, Jonathan (Tom Udall)" <Jonathan_Black@tomudall.senate.gov> wrote:

Are you guys ok to visit/chat with stakeholders who provided us with the original definition I shared with you?
I could convene a call.

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From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Tuesday, June 09, 2015 3:11 PM
To: Black, Jonathan (Tom Udall)
Subject: Sen. Udall TSCA TA Request on Asbestos Definition

Jonathan,
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Please see the attached TA comments on the definition. The importance of the primary comment depends on the possible use of the definition in the TSCA reform context. The open ended definition in 1(H) "any other asbestiform amphibole mineral" may present challenges to EPA if this expanded definition is used as the legal basis for a new EPA mandatory duty, e.g., conduct safety assessments in a fixed timeframe on "asbestos". The definition may include a number of minerals for which information and data may be limited compared to other asbestiform minerals such as chrysolite. EPA would need to perform additional research and analysis to identify and assess these minerals, and it may be difficult to complete assessments of these minerals in the same timeframe as other minerals on the list.

Please let me know if any additional questions. Best, Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

-----Original Message-----

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Tuesday, May 19, 2015 9:34 AM
To: Kaiser, Sven-Erik
Cc: Jones, Jim

Subject: Emailing: Asbestos Definition

Sven, can you have your team review this proposed definition on asbestos and let me know if it is in keeping with EPA's own definition of asbestos? I believe it is. Also, the definition of asbestiform.

Thanks.

jb

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Asbestos Definition

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Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 6/11/2015 5:53:37 PM
To: 'Black, Jonathan (Tom Udall)' [Jonathan_Black@tomudall.senate.gov]
CC: Karakitsos, Dimitri (EPW) [Dimitri_Karakitsos@epw.senate.gov]
Subject: RE: Additional TA requests | Exports - Penalties - Citizen's Civil Actions

Got it - circulating

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Black, Jonathan (Tom Udall) [mailto:Jonathan_Black@tomudall.senate.gov]
Sent: Thursday, June 11, 2015 1:53 PM
To: Kaiser, Sven-Erik
Cc: Karakitsos, Dimitri (EPW); Black, Jonathan (Tom Udall)
Subject: Additional TA requests | Exports - Penalties - Citizen's Civil Actions
Importance: High

Sven, we have been diligently working through your TA:

I think we've made a lot of progress, but now there are three areas we still need some attention.

1. Section 13, Exports (see attachment): The change you suggested earlier has been inserted into paragraphs (2)(A) and (B).

Question: Is further clarification needed as to whether those determinations are:

- a. limited to risks in the U.S., and
- b. limited to the manufacture, processing, and distribution in commerce of the exported portion of the chemical substance?

Possible text additions to address each of these are shown on lines 4-5 and 6 and 7.

2. Section 16, Penalties (see attachment): Per your earlier TA, we have incorporated verbatim language from the Clean Air Act section 113(c)(5)(B) regarding "knowledge of imminent danger or injury," "affirmative defenses," and "defenses," as well as relevant definitions. **This represents a lot of new text, however.**

Question: Is there a way to incorporate all of this by reference?

3. Section 19, Citizen's Civil Actions (see attachment): Per your earlier TA, we have expanded the section 4 actions subject to this section to include testing consent agreements and test orders, as well as test rules.

Questions:

- a. On the one hand, this change conforms the section to encompass all of the new section 4 authorities. On the other hand, does it represent an expansion beyond current TSCA by subjecting consent agreements (which EPA uses sometimes under current TSCA) to citizen's civil actions? [There are competing views on this: a concern about expanding the scope of this section vs. ensuring that the adequacy of testing using any of the available instruments is able to be challenged by any party (consent

agreements presumably would not be challenged by industry, as the relevant company will have already consented, but if they are not challengeable by others, that raises a concern).]

- b. Under what circumstances would EPA expect to use a testing consent agreement rather than a test order? How would that decision potentially be affected if it were the case that only the latter action was subject to citizens' civil actions?

Thanks for your assistance; a response at your earliest convenience is requested.

Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 6/11/2015 5:05:36 PM
To: Black, Jonathan (Tom Udall) [Jonathan_Black@tomudall.senate.gov]
Subject: Re: Sen. Udall TSCA TA Request on Asbestos Definition

After 3pm today?

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I could convene a call.

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From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Tuesday, June 09, 2015 3:11 PM
To: Black, Jonathan (Tom Udall)
Subject: Sen. Udall TSCA TA Request on Asbestos Definition

Jonathan,
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Please let me know if any additional questions. Best, Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

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Sven, can you have your team review this proposed definition on asbestos and let me know if it is in keeping with EPA's own definition of asbestos? I believe it is. Also, the definition of asbestiform.

Thanks.

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Sent: 6/11/2015 3:58:24 PM
To: Black, Jonathan (Tom Udall) [Jonathan_Black@tomudall.senate.gov]
Subject: Re: Sen. Udall TSCA TA Request on Asbestos Definition

Jonathan,
Checking- our biggest concern is how the definition will be used- it impacts our TA. Thanks,
Sven

On Jun 11, 2015, at 11:47 AM, "Black, Jonathan (Tom Udall)" <Jonathan_Black@tomudall.senate.gov> wrote:

Are you guys ok to visit/chat with stakeholders who provided us with the original definition I shared with you?
I could convene a call.

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Sent: 6/10/2015 8:50:53 PM
To: 'Black, Jonathan (Tom Udall)' [Jonathan_Black@tomudall.senate.gov]
Subject: SEPW TSCA TA on broken references

Jonathan,

Thank you for the request to look at the latest version of the bill, Although we haven't done a complete review, we spotted a technical problem that could be significant so we wanted to get it to you right away.

- There is a broken cross reference in section 26(b)(3)(D)... (page 69) it should say "notwithstanding (B)" instead of "notwithstanding (C)." (The \$18 million cap paragraph is now called paragraph (B) rather than paragraph (C)). This error has the potential to confound EPA's authority to collect fees beyond the \$18 million cap, for industry sponsored chemicals.

- Also, another broken cross reference from renumbering - 3A(d) refers to subsection (b) which was renumbered as (a).

Please let me know if any questions. Best,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
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Message

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Sent: 6/10/2015 7:20:57 PM
To: 'Wagner, Jen (Markey)' [Jen_Wagner@markey.senate.gov]
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Jen – 9 am works – § Personal Phone / Ex. 6 code § Personal Phone / Ex. 6 I'll send an invite. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Wagner, Jen (Markey) [mailto:Jen_Wagner@markey.senate.gov]
Sent: Wednesday, June 10, 2015 2:57 PM
To: Kaiser, Sven-Erik
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Thanks Sven. I will try to block anything from going on my calendar in the hopes that a call will work with you all.

~Jen

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Wednesday, June 10, 2015 1:44 PM
To: Wagner, Jen (Markey)
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Jen – I'll check with folks and see what we can set up with the times you provided. Please let me know if any additional questions. Best,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Wagner, Jen (Markey) [mailto:Jen_Wagner@markey.senate.gov]
Sent: Wednesday, June 10, 2015 12:43 PM
To: Kaiser, Sven-Erik
Subject: RE: Sen. Markey TA Request on Asbestos Bill

Sven,
Could we please schedule a call with your best asbestos folks to walk through some of the technical assistance? I would like to get some clarification on a few areas, including how the waiver system is operating in practice and pros and cons of replacing the waiver system with primacy language.

It is important that this call happen this week. Here are some windows that would work for me:

Thursday: 9am-10am, 2-2:30pm, or 3:30pm-5:30pm

Friday: any time before 1pm

Thank you so much.

~Jen

From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]

Sent: Tuesday, June 09, 2015 1:48 PM

To: Wagner, Jen (Markey); Freedhoff, Michal (Markey); Joseph, Avenel (Markey)

Subject: Sen. Markey TA Request on Asbestos Bill

Jen,

This responds to your request for technical assistance on the draft asbestos bill. We have the following general comments along with the attached line by line comments.

General comments:

- Responsibility for implementing most of the new requirements would appear to fall largely on states, although EPA would have new oversight and data management responsibilities, along with a grant program. EPA would need to do a rule on the reporting requirements, a separate rule requiring disclosure on building permit applications, revise regulations on state waivers, and issue a notice on how to submit data.
- Encourage consistency in use of terms. For example, “asbestos containing material” is not used consistently throughout the Act, which it may make it unclear whether both asbestos and asbestos containing material are covered.
- The date range of “before 1981 (or no later than 1980)” is not a bright line for whether asbestos is present in buildings. Considering the “Corrosion Proof Fittings” case and the overturned EPA Asbestos Ban and Phaseout Rule under TSCA, asbestos containing materials may be present in buildings built after 1981. Today, asbestos products may still be manufactured, imported, distributed and sold in the U.S. Note: It appears that the inclusion of “built before 1981” may have been included based on the OSHA asbestos regulation’s use of “buildings constructed no later than 1980.”
 - **1926.1101**
https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9995
 - **1910.1001**
https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10862
 - However, this OSHA provision “buildings constructed no later than 1980” is for the presumption of asbestos in a building. Building owners must presume certain materials in buildings built before 1980 contain asbestos. Building owners, however, are still responsible for any asbestos within their buildings built after 1980.
- The term “risk assessment” as used (e.g., Section 3(b)(3)) may imply a more costly, unnecessary and undefined activity when applied to a residential setting. The term “inspection” is used in the current context of the TSCA asbestos regulations and the asbestos professional industry when looking for the presence of asbestos.
- It is not clear what is meant by the term “asbestos hazard(s)” throughout the proposed amendment. For lead paint, the term “lead based paint hazard” is defined in the Residential Lead-Based Paint Hazard Reduction Act of 1992 which helps regulatorily in determining what is identified as a hazard and how it should be addressed. Leaving “asbestos hazard(s)” undefined may create situations where defining a hazard is open to interpretation.

- Suggest considering whether criminal enforcement provisions be added to the bill.

We would be open to further discussion on that and any portion of the entire TA if helpful. The technical assistance is intended for use only by the requester. The technical assistance does not necessarily represent the policy position of the agency and the administration on the bill, the draft language and the comments. Please let me know if any additional questions. Best,
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1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Wagner, Jen (Markey) [mailto:Jen_Wagner@markey.senate.gov]
Sent: Wednesday, May 13, 2015 1:05 PM
To: Kaiser, Sven-Erik
Subject: feedback sought on draft legislation

Sven,
I hope you are doing well. We wanted to share with you a discussion draft of a bill my boss, Senator Markey, plans to introduce. We welcome your general feedback but were hoping you might have specific recommendations for Section 4 of the bill and, in particular, the selection of waiver language or primacy language. I've attached a copy of the text as well as a copy of our one-page summary.

If you are able to provide feedback by end of next week, that would be appreciated. Thanks in advance.

Kind regards,
Jen Wagner

Jennifer K. Wagner, J.D., Ph.D.
AAAS Congressional Fellow
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Message

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AAAS Congressional Fellow
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Message

From: Kaiser, Sven-Erik [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AC78D3704BA94EDBBD0DA970921271FF-SKAISER]
Sent: 6/10/2015 1:46:14 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]
Subject: RE: Sen. Markey TSCA TA on State Waiver

Michal,
Please resend, thanks.
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Wednesday, June 10, 2015 9:32 AM
To: Kaiser, Sven-Erik
Subject: Re: Sen. Markey TSCA TA on State Waiver

I sent it last night. Need it re-sent?

From: Kaiser, Sven-Erik
Sent: Wednesday, June 10, 2015 9:29 AM
To: Freedhoff, Michal (Markey)
Subject: Sen. Markey TSCA TA on State Waiver

Michal,
Do you anticipate sending a refined request today following up on yesterday's discussion? Thanks,
Sven

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Sent: 6/10/2015 1:29:09 PM
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Sent: 6/9/2015 3:14:00 PM
To: 'Freedhoff, Michal (Markey)' [Michal_Freedhoff@markey.senate.gov]; Joseph, Avenel (Markey) [Avenel_Joseph@markey.senate.gov]
Subject: RE: Sen. Markey TSCA TA Request on Preemption Waiver

Michal,
15 min might be tough – maybe 5pm. We can do 4pm if that's all you have. We'll get right to the point (being that some of the suggested changes may create new issues and it might be better to go back to the bill and look at what language will help achieve your goals). Thanks,
Sven

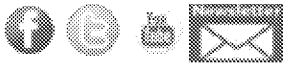
Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Tuesday, June 09, 2015 11:11 AM
To: Kaiser, Sven-Erik; Joseph, Avenel (Markey)
Subject: RE: Sen. Markey TSCA TA Request on Preemption Waiver

i['m sorry. I just had a 4:15 call show up. Think we can work through it in 15 min or do we need more time?

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey



From: Kaiser, Sven-Erik [mailto:Kaiser.Sven-Erik@epa.gov]
Sent: Tuesday, June 09, 2015 11:09 AM
To: Freedhoff, Michal (Markey); Joseph, Avenel (Markey)
Subject: RE: Sen. Markey TSCA TA Request on Preemption Waiver

Michal – 4pm today works. Please call 8 [Personal Phone / Ex. 6] code [Personal Phone / Ex. 6] hanks,
Sven

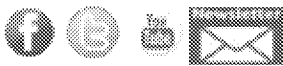
Sven-Erik Kaiser
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Washington, DC 20460
202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Tuesday, June 09, 2015 10:34 AM
To: Kaiser, Sven-Erik; Joseph, Avenel (Markey)
Subject: RE: Sen. Markey TSCA TA Request on Preemption Waiver

Yes, I do. I have btw 1-2 or after 4.

Michal Ilana Freedhoff, Ph.D.
Director of Oversight & Investigations
Office of Senator Edward J. Markey
255 Dirksen Senate Office Building
Washington, DC 20510
202-224-2742

Connect with Senator Markey



From: Kaiser, Sven-Erik [<mailto:Kaiser.Sven-Erik@epa.gov>]
Sent: Tuesday, June 09, 2015 10:32 AM
To: Freedhoff, Michal (Markey); Joseph, Avenel (Markey)
Subject: Sen. Markey TSCA TA Request on Preemption Waiver

Michal – we’re having issues sorting through the language. Do you have time today for a call with OGC?
Please let me know availabilities. Thanks,
Sven

Sven-Erik Kaiser
U.S. EPA
Office of Congressional and Intergovernmental Relations
1200 Pennsylvania Ave., NW (1305A)
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202-566-2753

From: Freedhoff, Michal (Markey) [mailto:Michal_Freedhoff@markey.senate.gov]
Sent: Monday, June 08, 2015 11:04 AM
To: Kaiser, Sven-Erik; Freedhoff, Michal (Markey)
Cc: Joseph, Avenel (Markey)
Subject: another TA request - second version of waiver language

Sven:

Pasted below is a second version of a waiver process re-draft. This one does include some policy changes, namely, we’ve eliminated some of the ‘stop start’ issues and added a timeline for judicial review for the 18a waiver as well. We’d like any TA you may have on this.

Thanks
Michal

“(2) REQUIRED EXEMPTIONS.—Upon application of a State or political subdivision of a State, the Administrator shall exempt from subsection (b) a statute or administrative action of a State or political